

DAVID O'MAHONY

Year of call
2000



David is one of the most experienced practitioners in offshore financial crime and related civil work. His international experience is unusually geographically diverse. The core of his practice is in cases involving all three of: criminal issues; trusts, company and property law issues; and cross-border issues.

David also has an interest in the legal issues that arise in the emerging field of Artificial Intelligence. He is currently studying for an external MSt in "AI Ethics and Society" at the Leverhulme Centre for the Future of Intelligence at Cambridge University. He contributed to the Bar Council's Guidance on the use of Large Language Models (such as ChatGPT).

David's introductory textbook: "Cross-border criminal and civil recovery litigation offshore" is published by Key Haven Publications.

David is qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come direct to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our Direct Access page [here](#).

By its nature, a proportion of David's work is confidential. A flavour for his practice can be gleaned from the following selected cases.

LEGAL EXPERTISE

Offshore

David has been the lead external counsel in a number of substantial offshore investigations and associated litigation. These include: the largest ever criminal freezing order by value; the enforcement of the then largest kleptocracy civil forfeiture judgment obtained by the USDOJ; the only offshore financial crime case to reach the European Court of Human Rights; and the £ 100 million inducing breach of contract claim against the Jersey finance minister. In 2020 David represented Jersey in negotiating a US\$ 300 million asset sharing Treaty between Jersey, the United States and Nigeria. In 2023 he was solely responsible for all the Attorney General's written arguments in the three inter-locking appeals to the Privy Council in *Tan Chi Fang v. Attorney General* which considered issues of international jurisdiction and State Immunity as they applied to the freezing of a multi-jurisdictional offshore structure.

David managed and wrote all the arguments for the Jersey Attorney General's Abacha cases (including Bhojwani and Doraville) which involved over 20 reasoned judgments at all levels of the court hierarchy (many of which are reported) and resulted in over US\$ 500 million being returned to Nigeria.

In the course of his practice, David has been in 5 applications for permission to appeal to the Judicial Committee of the Privy Council, 11 appeals in the Jersey Court of Appeal, has had numerous instructions in Jersey, the Isle of Man (including cases in the Staff of Government Division) and Guernsey. He has received major instructions in Dubai (including acting alone in 3 inter-related arbitrations in the DIFC where he was admitted in the DIFC Court) and was junior counsel in the large corruption prosecution in the Turks and Caicos Islands. He has advised in a significant case in Hong Kong.

He has been instructed by the Jersey Financial Services Commissions ('JFSC') to conduct a 6 month regulatory investigation into the trusts arm of a major bank.

He is on the Serious Fraud Office 'A' Panel for Proceeds of Crime Act cases.

Selected Cases

[Tan Chi Fang and Ors v. Attorney General for Jersey \[2023\] UKPC 1](#)

Landmark case on the territorial reach of the power to freeze assets in aid of foreign criminal and civil proceedings and on the inter-relationship between mutual legal assistance and the doctrine of State Immunity.

[First Trust Management AG v Attorney General \[2018\] JRC 64](#)

Proceedings involving the United States and South Africa and considering important issues relating to the ability to confiscate assets held on trust when enforcing a foreign criminal confiscation order.

United States v Doraville 2017 (1) JLR 64 2017

Acting for the United States of America and the Attorney General for Jersey in parallel proceedings to enforce a US\$ 300 million corruption forfeiture order and other relief.

Viscount v Arthur & Others

Acting for Viscount of Jersey in the Jersey Court of Appeal concerning whether she has duties akin to those of a trustee.

WTHK & Anor v UBS Trustees (Jersey) Limited [2016] JRC 99 & 113

Jersey trust proceedings concerning a €990 million fund.

Bhojwani v United Kingdom application number 49964/11 (2016)

Acted successfully for the UK government in the ECtHR in US\$43 million corruption money laundering case.

Minister of Treasury and Resources v Harcourt & Anor 2014 (2) JLR 353

Acted for the Finance Minister of Jersey in a £100 million claim for inducing breach of contract.

International

David has travelled widely. He did his first law degree in Australia. He has worked on the ground on cases in Thailand, Pakistan, India, Kenya, Nigeria and Switzerland. He has worked closely with the United States Department of Justice and the US State Department. He has given talks and chaired seminars for the United Nations Office on Drugs and Crime (UNODC) in Turkmenistan and Kazakhstan and spoken on crime and corruption issues in Ukraine, Brazil and Cyprus. He was part of a team working for the United Nations Development programme reviewing the draft Criminal Procedure Code for Sierra Leone. He has advised in cases involving a number of other jurisdictions including: Indonesia, Mongolia, Iran, Ukraine, Germany, Italy (in a case which involved the return of € 1.3 billion to that country), Denmark, Norway, the Democratic Republic of Congo and South Africa. He assists the CEELI institute in training judges in Eastern Europe and Africa.

His international work includes public and private international law issues (including issues of State Immunity), arbitration (he has been instructed in both commercial and investment arbitrations), civil fraud and proprietary claims (particularly where there is a linked criminal case), sanctions (he has advised on a wide range of sanctions regimes and on both the government and corporate sides of those issues), corruption (he has worked on the ground in a number of victim countries and negotiated a settlement with a large multi-national company) and international criminal law (he was instructed in a substantial in-country crimes against humanity investigation for which he wrote the report on fact and law, and is on the list of counsel at a number of international tribunals).

Academic and other

David has law degrees from the University of Queensland in Australia (where he also won the constitutional law prize) and the University of Cambridge (to which he won a full scholarship). He was awarded the Chapman Scholarship by the Inner Temple and tutored Public Law at the London School of Economics and Political Science ('LSE'). He attended the Advanced Course in International Criminal Law and the Public International Law summer school at the Hague Academy of International Law and the Human Rights Law Summer School at the European University Institute in Florence. He is a member of the Royal Institute of International Affairs (Chatham House) and of the Regulatory Review Panel of the Bar Council.

Appointments

- Deputy High Court Judge (King's Bench Division)
- Recorder (Civil and Crime (including class 2 authorisation))

Memberships

- Fraud Lawyers' Association
- Royal Institute of International Affairs